

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

Conservatorship of the Person and Estate of
CYNTHIA M.

SAN MATEO COUNTY PUBLIC
GUARDIAN,

Petitioner and Respondent,

v.

CYNTHIA M.,

Objector and Appellant.

A144087

(San Mateo County
Super. Ct. No. LPS-089635)

MEMORANDUM OPINION¹

By order of November 21, 2013, a conservatorship was established for appellant Cynthia M. under the Lanterman-Petris-Short Act (LPS Act; Welf. & Inst. Code, § 5000 et seq.) On October 29, 2014, the San Mateo County Public Guardian petitioned to reestablish the conservatorship. After a court trial, requested by Cynthia, the probate court entered an order granting the petition on January 8, 2015. Cynthia has appealed the order reestablishing the conservatorship. At the trial, Cynthia's treating psychiatrist for the past two and a half years testified she suffers from schizoaffective disorder and described her symptoms. The psychiatrist opined that Cynthia is greatly disabled as a result of the symptoms of her mental disorder and provided the basis for his opinion. In

¹ We resolve this case by a memorandum opinion pursuant to California Standards of Judicial Administration, section 8.1.

particular, the psychiatrist was concerned that Cynthia was subject to disabling delusions, which are particularly severe when she ceases to take prescribed medication. Yet because Cynthia does not believe she has a mental illness, she is likely to stop treatment if permitted to do so. Her untreated condition would rapidly render her unable to provide for her own food, clothing, and shelter.

Cynthia testified that, if released from the institution, she would live in a condominium in Half Moon Bay, owned by her mother. She could provide for herself from a disability income. Cynthia said she would continue to take psychotropic medication in the event of release, but she expressed unmistakable ambivalence about the medication. Even when saying she would voluntarily continue to take it, Cynthia said she believed the medication was “hurting me more than it’s helping me.” Later, she testified, “psych meds are not the answer. I want to be in the solution not in the problem. And the solution is working the 12-step program and while working the 12-step program being in the solution.” Cynthia, who believes her illness resulted from “duress” suffered at work rather than any organic cause, admitted she resisted taking the medication at times while institutionalized.

Cynthia’s counsel filed an opening brief setting forth the facts of the case and raising no arguable issues on appeal. Counsel asked this court to conduct an independent review of the record under *People v. Wende* (1979) 25 Cal.3d 436 and *Conservatorship of Ben C.* (2007) 40 Cal.4th 529.

Cynthia was informed by her attorney of her right to file her own brief, and she has done so. She argues the probate court erred in finding her gravely disabled because she is now taking her medications regularly and has gained insight into strategies and resources for coping with her mental illness. She argues she has a steady income from Social Security disability benefits and points out she lived successfully on her own for many years in her mother’s condominium.

When the probate court concludes that a proposed conservatee would be unable to care for himself or herself without psychotropic medication and would likely discontinue such medication in the absence of an LPS conservatorship, the court may find the

conservatee gravely disabled. (*Conservatorship of Walker* (1989) 206 Cal.App.3d 1572, 1577.) Here, the treating psychiatrist's testimony, supported by Cynthia's admitted ambivalence about the medication, provided substantial evidence to support such findings. This is true even though, as may be the case here, the proposed conservatee is capable of caring for herself when properly medicated.

Counsel filed a request for expedited appeal and calendar preference in order that this appeal may be heard without danger of becoming moot. In light of our timely disposition of the appeal, we deny that request as moot.

The probate court's order of conservatorship is affirmed.

Margulies, J.

We concur:

Humes, P. J.

Banke, J.

A144087

Conservatorship of Cynthia M.